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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Art Unit: 1646
GRONHOJ-LARSEN, et al.	)	Examiner: HAMUD, F.
Serial No.: 09/101,825	)	Washington, D.C.
Filed: July 17, 1998	)	December 21, 1999
For: SYNTHETIC IL-10 ANALOGUES	)	Docket No.: GRONHOJ-LARSEN=2



ELECTION WITH TRAVERSE

Honorable Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

S i r :

In response to the restriction requirement mailed July 22, we hereby elect group I with traverse.

The instant application is the national stage of a PCT application, so PCT unity rules apply.

The restriction between groups I and II is improper because the process of group II (claim 47) is specially adapted to the production of the polypeptide of claim 18 (group I). See 37 CFR §1.475(b)(1) and MPEP § 1893.03(d), also PCT Administrative Instruction, Annex B, part 1(e), and part 2 Examples 1-7.

In response to the species restriction, Applicants hereby elect the prevention and treatment of pancreatitis. To avoid confusion later, we wish to make clear that the disease of greatest concern is the respiratory distress syndrome (ARDS) which is a lethal condition developing as a result of the pancreatitis. Thus, at page 48, lines 20-25, it is stated

IT9302 downregulates TNF- $\alpha$  and IL-8 production in a model of bile acid induced acute pancreatitis, and blocks neutrophil infiltration in lungs of these treated rabbits, thereby preventing the development of ARDS-like syndrome in these animals, resulting in a reduction of mortality from 60% to 0% after 12 hours.

We believe that by electing the species "prevention and treatment of pancreatitis", we are covering the prevention and

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treatment of "acute pancreatitis" and the prevention and treatment of ARDS. If this is not the case, we would like to elect the prevention and treatment of ARDS, see new claim 51.

Claims 18-41 and 48, and new claim 55, are product claims, hence, they cover all uses. Claim 47 is to a process for manufacture. Claim 42 is a Markush claim which recites pancreatitis as the last member of the group. New claim 56 is similar to 42. Claims 43 and 45, and new claims 51-53 and 60-63, are specific to pancreatitis. New claims 49 and 50 are generic method-of-use claims. Claim 54 limits the substance in 49. Claim 44 and new claims 57-60 are the only claims wholly outside the elected species. Thus, claims 18-43, 45-56, and 61-64 correspond to the elected species.

The species restriction is traversed on the ground that the generic claims are allowable.

Respectfully submitted,

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